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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,589	07/02/2003	Jeffrey M. Simpson	2S14.1-011	6134

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GARDNER GROFF, P.C.
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EXAMINER

OLSZEWSKI, JOAN M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,589

Applicant(s)

SIMPSON, JEFFREY M.

Examiner

Joan M. Olszewski

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "30" in Figure 4a. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "28" has been used to designate both "aperture 28" and "latch 28". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Further, Applicant is required to carefully review the entire specification for errors of the type mentioned above and correct all locations in the specification so that the reference character and the term to describe that reference character is consistent throughout.

Further, Figure 4b has a lead line with no reference character.

Specification

The disclosure is objected to because of the following informalities:

Page 1, [00001], lines 1 and 2, "Application Serial No. 29/160,054, filed May 2, 2002" should be deleted and -- D483156 -- should be inserted.

Art Unit: 3643

Page 1, [00001], lines 4 and 5, "Application Serial No. 29/160,054" should be deleted and -- D483156 -- should be inserted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the use of "and/or" in claim 25, line 8 is confusing and makes the scope of the claim unclear. Further, since claims 26-27 depend from claim 25 these are also rejected.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (US Patent 6,230,915).

Regarding Claims 1 and 2, Liu discloses a device (Figure 1) capable of being a pet enclosure comprising a frame formed of a substantially rigid, non-porous material and a flexible, non-porous material woven onto the frame (Figure 1); and wherein the frame comprises a plurality of generally flat rectangular panels (Figure 1).

Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Richmond et al. (US Patent 6,318,294).

Art Unit: 3643

Regarding Claim 22, Richmond et al. disclose a pet enclosure (Figure 1) comprising a floor panel and a plurality of legs for supporting the floor panel a distance above an underlying support surface (Figure 1).

Claims 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolozsvari (US Patent 6,192,834) and as best understood in light of the 35 USC 112 second paragraph rejection above.

Regarding Claim 25, Kolozsvari discloses pet enclosure (20) comprising: a base portion (50); a first side panel hingedly connected to the base portion; a second side panel hingedly connected to the base portion; a first end panel hingedly connected to the base portion; a second end panel hingedly connected to the base portion; and a top panel hingedly connected to at least one of the first and second side panels and at least one of the first and second end panels (Figures 1 and 2).

Regarding Claim 26, Kolozsvari discloses all the claimed features as discussed in the rejection above including wherein a hinge connection between a first of the panels and the base portion is offset from a hinge connection between a second of the panels and the base portion to permit the panels to fold into a compact configuration (Figure 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3643

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu.

Regarding Claims 9 and 13, Liu discloses all the claimed features as discussed in the rejection above except for a plastic having the appearance of natural rattan or wicker. However, the use of plastics to simulate natural rattan in order to provide durability has been notoriously well known in the art .

Therefore, it would have been obvious to one of ordinary skill in the art to have utilized a simulated plastic in Liu for the well known benefits.

Claims 3-8,10 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Kolozsvari (US Patent 6,192,834).

Regarding Claims 3,4 and 14, Liu discloses all the claimed features as discussed in the rejection above including wherein the panels are pivotally connected to one another to allow folding of the enclosure into a compact configuration (Figure 4)(columns 2 and 3, lines 66-3). Liu does not show the assembly of the enclosure into an assembled configuration without separation of the panels from one another. However, Kolozsvari discloses a collapsible enclosure (20) (Figures 2 and 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Liu to include an assembly of the enclosure into an assembled configuration without separation of the panels from one another as taught by Kolozsvari in order to provide ease and a less time consuming process of assembly.

Art Unit: 3643

Regarding Claims 5 and 15, Liu discloses all the claimed features as discussed in the rejection above except for a door pivotally mounted to swing both inwardly and outwardly in one of the panels. However, Kolozsvari teaches the use of an inwardly and outwardly swinging door (120) mounted in panel (110) in opening (114).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Liu to include a door as detailed above and taught by Kolozsvari in order to provide access to the interior of the enclosure.

Regarding Claims 6 and 16, Liu as modified by Kolozsvari discloses all the claimed features as discussed in the rejections above except for a latch for securing the door in a closed or open position. However, Kolozsvari teaches the use of a latch (130) for securing the door in a closed position. Further, it is well known to utilize latches on doors to lock them in both open and closed positions in order to keep the door out of the way while open.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Liu as modified by Kolozsvari to include a latch on the door for securing the door in the closed position as taught by Kolozsvari so as to lock the door and prevent opening. Further, as discussed above it would be obvious to also lock the door in an open position.

Regarding Claims 7 and 17, the combination of Liu and Kolozsvari discloses all the claimed features as discussed in the rejections above except for the latch securing the door in an inwardly open position within the enclosure. However, it is the

Art Unit: 3643

Examiner's position that it is well known to secure a door in both an inwardly and outwardly open position in order to keep the doorway clear.

Regarding Claim 8, Liu discloses all the claimed features as discussed above except for the substantially rigid, non-porous material of the frame being formed of metal wire. However, Kolozsvari teaches the forming of a frame structure of metal wire to be well known.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Liu device by forming the frame elements of a metal wire as taught by Kolozsvari in order to provide an inexpensive easy to produce structure.

Regarding Claims 10 and 18, Liu discloses all the claimed features as discussed above except for a floor panel supported a distance above an underlying support surface. However, Kolozsvari teaches a floor panel (28) supported a distance above an underlying surface formed of wires. In Kolozsvari the bottom surface of the wires are considered the support surface and as such the floor panel (28) would be a distance above the underlying surface.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Liu device by utilizing a tray element mounted on top of the bottom frame as taught by Kolozsvari in order to provide a removable cleanable surface.

Art Unit: 3643

Claims 11,12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu as modified by Kolozsvari and further in view of Wheeler (US Patent 4,027,625).

Regarding Claims 11 and 19, Liu as modified by Kolozsvari discloses all the claimed features as discussed in the rejections above except for wherein the floor panel comprises at least one channel for receiving a cooperating portion of the frame. However, Wheeler teaches the concept of a floor panel (16) placement in channeled area (column 3, lines 24-25). To rearrange the channels to be a part of the removeable floor and form the cage wall with an extending frame member to engage the channels would be an obvious rearrangement of parts with no change in function.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Liu as modified by Kolozsvari to include a channel member for receiving a cooperating portion of the frame as taught by Wheeler in order to provide a more stable securement of the element.

Regarding Claim 12, Liu as modified by Kolozsvari and Wheeler, also discloses the plurality of angular offset channels and cooperating frame elements as Wheeler teaches the channels and engaging elements being located on three sides.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolozsvari (US Patent 6,192,834).

Regarding Claim 20, Kolozsvari discloses a pet enclosure (Figure 3A) comprising an opening in which a door is pivotally mounted to swing both inwardly and outwardly, a

Art Unit: 3643

latch for securing the door in a closed position (Figure 3A). Kolozsvari does not specifically state that the latch secures the door in an open position it is the Examiner's position that it would be obvious to latch a door in both an open or closed position.

Regarding Claim 21, Kolozsvari discloses all the claimed features as discussed in the rejection above except for wherein the latch secures the door in an inwardly open position within the enclosure. However, it is the Examiner's position it is well known to secure a door in both an inwardly and outwardly open position in order to keep the doorway clear.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolozsvari in view of Wheeler.

Regarding Claim 23, Kolozsvari discloses a pet enclosure (20) comprising a frame and a removable floor panel (28). Kolozsvari does not show the floor panel comprising at least one channel for receiving a cooperating portion of the frame. However, Wheeler teaches the concept of a floor panel (16) placement in channeled area (column 3, lines 24-25). To rearrange the channels to be a part of the removeable floor and form the cage wall with an extending frame member to engage the channels would be an obvious rearrangement of parts with no change in function.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Kolozsvari to include a channel member for receiving a cooperating portion of the frame as taught by Wheeler in order to provide a more stable securement of the element.

Art Unit: 3643

Regarding Claim 24, Kolozsvari as modified by Wheeler also discloses the plurality of angular offset channels and cooperating frame elements as Wheeler teaches the channels and engaging elements being located on three sides.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolozsvari in view of Leichtfuss (US Patent 2,079,458).

Regarding Claim 27, Kolozsvari discloses all the claimed features as discussed in the rejection above except for wherein short connector links are interposed between one or more of the panels and the base portion to permit the panels to fold into a compact configuration. However, Leichtfuss teaches short connector links interposed between one or more panels and the base portion to permit the panels to fold into a compact configuration (Figure 1 and 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Kolozsvari to include short connector links interposed between one or more panels and the base portion to permit the panels to fold into a compact configuration as taught by Leichtfuss in order to facilitate easier collapsing of the enclosure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3643

Newcomb (989,029), Ortt (2,170,379), Sou (4,256,056), Sugiura (4,527,512), Rockaitis, III (5,249,549), Mo (5,282,542), Richmond (5,669,331), Weng (5,931,326), Askins et al. (5,943,982), Axelrod (6,131,534) and Huang (GB 2 238 296 A).

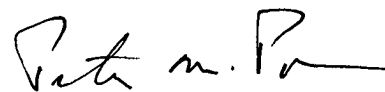
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joan M. Olszewski whose telephone number is 703-305-2693. The examiner can normally be reached on Monday-Friday (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joan M. Olszewski
Patent Examiner
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2/20/04